

Brent J Fields

Secretary

U.S. Securities & Exchange Commission

100 F Street, NE

Mail Stop 1090

Washington, DC 20549

In the Matter of : Russell C Schalk Jr

Administrative Proceeding File No: 3-16498

March 8, 2016

Dear Secretary Fields:

Pursuant to Rule 410 of the Securities and Exchange Commission Rules of Practice, I respectfully submit this petition for review, and in some instances clarification, of the February 10, 2016 Initial Decision of the ALJ to conclude payment of disgorgement and civil monetary penalties of \$20,000 per year.

The ALJ misinterpreted, or otherwise misunderstood some of the evidence provided in my October 8, 2015 reply to the Commissions' ruling opposing my inability to pay monetary sanctions dated September 11, 2015. Due to these misinterpretations, several erroneous conclusions were drawn leading to several errors of fact in weighing the decision.


In summary these misinterpretations are as follows:

- 1) The ALJ erred when he concluded I drive a luxury vehicle. My monthly payment is high due to low credit scores. I drive a compact Acura TSX, the least expensive Acura available. Detailed documentation can be provided as support when a brief is filed.
- 2) My credit card debt is not due to vacations, gambling, or any sort of extravagant spending, but due to covering monthly living expenses and to pay other bills via cash advances. Detailed documentation can be provided as support when a brief is filed.
- 3) The ALJ correctly concluded that I should make \$20,000 in commissions each year as an average. However, since I earned no commissions in 2014, and limited commissions in 2015, the loan from my employer has increased from \$16,250 to \$30,250 since my last financial statement. This loan is basically an advance that will have to be repaid from future commissions. Detailed documentation can be provided as support when a brief is filed. Also, in relation to the loan from my employer, the ALJ erroneously concluded that I only provided a copy of one check for \$2,500, and two deposit slips for \$7,500 and \$6,250. These two "deposit slips" are actually checks written from a different account, and are numbered as check #105 for \$7,500 dated March 3, 2015, and check #116 for \$6,250 dated April 9, 2015. I have, along with my updated financial statement, included copies of these checks, along with a copy of the most recent check #1060 for \$14,000, which bring the total of the loan from my employer to \$30,250.
- 4) For the purpose of clarification only, as well as for my own edification, I respectfully ask for an explanation regarding the \$220,000 the OIP recites that I diverted these funds without authorization. I am not contesting the amount and have agreed to accept the OIP's allegations as true. However, my question is from whom would I have needed to receive authorization in order to recover funds I initially lent the company? At the time, I was

President of the company and my attorney, George Lawler, was my Secretary. We were the only two officers of the company.

I have, as requested, included an updated financial statement to the statement I originally provided on August 3, 2015 as part of Form DA. At present, my situation is dire, and at this time \$20,000 annually would cause additional undue hardship. I have increasing medical expenses, and at present am barely able to cover my monthly living expenses. While I do anticipate a turnaround in the market for future business and, therefore, hope for increased earnings, I would most likely not see the benefit from a market turnaround until late 2017. Given the details above, I respectfully ask for reconsideration in this matter.

Sincerely,

A handwritten signature in black ink, reading "Russell C. Schalk Jr." in a cursive script.

Russell C Schalk Jr

Cc: James E Grimes, Administrative Law Judge

Cc: John J Bowers, Asst. Chief Litigation Counsel, Division of Enforcement

Cc: Eugene Bull, Asst. Chief Litigation Counsel, Division of Enforcement